

§ 125.20

§ 125.19 When may a contracting officer set-aside a procurement for SDVO SBCs?

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(b) *Contracting Among Small Business Programs.*

(1) *Acquisitions Valued At or Below \$100,000/Simplified Acquisition Threshold.* The contracting officer shall set aside any acquisition with an anticipated dollar value exceeding \$3,000 (\$15,000 for acquisitions as described in the Federal Acquisition Regulation (FAR) at 48 CFR 13.201(g)(1)) but valued below \$100,000 (\$250,000 for acquisitions described in paragraph (1) of the Simplified Acquisition Threshold definition in the FAR at 48 CFR 2.101) for small business concerns when there is a reasonable expectation that offers will be obtained from at least two small business concerns that are competitive in terms of quality and delivery and award will be made at fair market prices. This requirement does not preclude a contracting officer from setting aside a contract under the 8(a) BD, HUBZone, Service Disabled Veteran Owned (SDVO), or WOSB programs.

(2) *Acquisitions Valued Above \$100,000/Simplified Acquisition Threshold.*

(i) The contracting officer shall set aside any acquisition with an anticipated dollar value exceeding \$100,000 (\$250,000 for acquisitions described in paragraph (1) of the Simplified Acquisition Threshold definition in the FAR at 48 CFR 2.101) for small business concerns when there is a reasonable expectation that offers will be obtained from at least two small business concerns that are competitive in terms of quality and delivery and award will be made at fair market prices. However, after conducting market research, the contracting officer shall first consider a set-aside or sole source award (if the sole source award is permitted by statute or regulation) under the 8(a) BD, HUBZone, SDVO SBC or WOSB programs before setting aside the requirement as a small business set-aside. There is no order of precedence among the 8(a) BD, HUBZone, SDVO SBC or WOSB programs. The contracting officer must document the contract file with the rationale used to support the specific set-aside, including the type and extent of market research conducted. In addition, the contracting officer must document the contract file showing that the apparent successful offeror's ORCA certifications and associated representations were reviewed.

(ii) SBA believes that Progress in fulfilling the various small business goals, as well as other factors such as the results of market research, programmatic needs specific to the procuring agency, anticipated award price, and the acquisition history, will be consid-

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ered in making a decision as to which program to use for the acquisition.

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§ 125.20 When may a contracting officer award sole source contracts to SDVO SBCs?

A contracting officer may award a sole source contract to an SDVO SBC only when the contracting officer determines that:

(a) None of the provisions of §§ 125.18 or 125.19 apply;

(b) The anticipated award price of the contract, including options, will not exceed:

(1) \$5,500,000 for a requirement within the NAICS codes for manufacturing, or

(2) \$3,000,000 for a requirement within all other NAICS codes;

(c) A SDVO SBC is a responsible contractor able to perform the contract; and

(d) Contract award can be made at a fair and reasonable price.

[69 FR 25268, May 5, 2004, as amended at 74 FR 46887, Sept. 14, 2009]

§ 125.21 Are there SDVO contracting opportunities at or below the simplified acquisition threshold?

Yes, if the requirement is at or below the simplified acquisition threshold, the contracting officer may set-aside the requirement for consideration among SDVO SBCs using simplified acquisition procedures or may award a sole source contract to an SDVO SBC.

§ 125.22 May SBA appeal a contracting officer's decision not to reserve a procurement for award as an SDVO contract?

The Administrator may appeal a contracting officer's decision not to make a particular requirement available for award as an SDVO sole source or a SDVO set-aside contract at or above the simplified acquisition threshold.

§ 125.23 What is the process for such an appeal?

(a) *Notice of appeal.* When the contracting officer rejects a recommendation by SBA's Procurement Center Representative to make a requirement